

**IN THE HIGH COURT OF HIMACHAL PRADESH,  
SHIMLA**

**Cr. Appeal No. 155 of 2000**

**Date of Decision: 26 .06.2007.**

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State of H P.

Appellant.

Versus

Harjeet Singh.

Respondent.

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**Hon'ble Mr. Justice Surinder Singh, J.**

**Whether approved for reporting<sup>1</sup>? No.**

**For the appellant : Sh.V K Verma, Additional Advocate General.**

**For respondent. : Shri Bimal Gupta, Advocate.**

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**Surinder Singh, J . (oral)**

The State-appellant is feeling aggrieved and dissatisfied by the judgment of acquittal passed by Additional Chief Judicial Magistrate in Criminal challan No. 294/2 of 1996 decided on 1.3.1999 under Sections 452, 354 and 506 of the Indian Penal Code, thus filed the instant appeal.

It is contended by the appellant that the learned Magistrate did not appreciate the prosecution evidence in its right perspective and the version given by the complainant was discarded on whimsical grounds.

The leave to appeal was granted on 10.4.2000. Now the matter has been finally heard.

Shri V.K. Verma, Additional Advocate General has taken me through the evidence on record and argued that the reasoning given by the trial Court for acquitting the respondent was incorrect. Therefore, it deserves to be

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Whether reporters of the Local papers are allowed to see the judgment? Yes.

reversed and the respondent be convicted and sentenced in accordance with law.

Contra, Shri Bimal Gupta, learned counsel for the respondent while supporting the impugned judgment of acquittal has pointed out material discrepancies in the prosecution case and the evidence to show that the version given by the complainant is tainted and absolutely false.

Succinctly, the prosecution case is that during the intervening night of 14 & 15.4.1996, the husband of the prosecutrix was on night duty in a private factory nearby. The complainant was sleeping in her house along with her children. At about 12.30 a.m., the respondent is alleged to have entered into her house. She woke up. Thereafter the respondent kept his hand on the mouth of the complainant and asked her to accompany him to another room to which she objected but the respondent threatened her and took her to another room. She raised the noise but none came for her rescue. . Suddenly, her husband Baldev Singh (PW2) came there. He switched on the light of the verandah. On seeing him, the respondent ran away. The matter was said to have been reported to another Baldev Singh (PW4) who was the Vice President of the Panchayat and thereafter the complainant made a statement before the Police on 16.4.1996 which was reduced in the form of FIR Exhibit-PA. The police went to the spot, prepared the site plan Exhibit PW5/A and recorded the statements of the witnesses. After completing the investigation, presented the challan in the trial court.

The prosecution examined the complainant as PW1, her husband Baldev Singh (PW2), daughter Satbir Kaur (PW3), Baldev Singh (PW4), Head Constable Investigating Officer Sajjan Pal (PW5).

The respondent was also examined under Section 313 of the Code of Criminal Procedure. He simply denied the allegations. According to him, in the third week of November, 1995, the complainant had taken a loan of rupees 5000/- from him. When he demanded the money back, she had been

putting off the same on one pretext or the other. Further that on 15.4.1996, she had fled away with one person named Dalel Singh. He informed the Police that she was hiding in the tube-well with some one. She was recovered from there. Since he complained about her character, thus he was implicated in a false case. He also examined Shri Jeet Singh and Rashpal Singh in his defense.

On scanning the evidence on record, it is clearly established in the cross-examination of Head Constable Sajjan Pal (PW5) that on 15.4.1996, on the information of the accused respondent, the complainant was recovered from the company of Dalel Singh from a tube-well in village Kubzan Matrolian by him on the direction of the Station House officer. Though this fact has been denied by her as well as her husband (PW2) whereas, DW1 and DW2 have corroborated this version of the respondent. The complainant had lodged the FIR on 16.4.1996 against the respondent pertaining to the incident allegedly happened on the intervening night of 14 and 15.4.1996 whereas she was in the company of Dalel Singh on 15.4.199. In these circumstances the statement of the complainant has to be taken with a pinch of salt and requires close scrutiny. In my opinion, her statement does not inspire confidence for the reason that she has stated in the FIR that she was dragged by the respondent to another room and in the mean time her husband had reached there. In cross-examination she has admitted that besides her house, there were the houses of Jaswant Singh, Jeet Singh, Karam Singh and Parkash. The site plan Exhibit PW5/A shows that in the adjacent room, elder brother of her sister named Jaswant Singh had been residing with his wife. She has not stated that she was taken to his room. At the relevant time, Jaswant Singh was sleeping in that room along with his wife. On raising alarm, they came to the spot but none of them were examined. Therefore, a dent has been caused in her version. She has also stated that there was a scuffle with the respondent for half an hour and she raised hue and cry but no body came there and when the

respondent dragged her, she sustained injuries in her leg but in the FIR she had mentioned that no injury was caused to her, therefore, she did not want to get herself medically examined. She further stated that when her husband came there and had raised alarm, many persons had assembled on the spot out of which Gurbux Singh and Jaswant Singh came there but again they were not produced to lend authenticity to her version.

The another regrettable feature of the case is that her husband Baldev Singh (PW2) in cross-examination has shifted the place of incident to Kitchen and not to the adjacent room as stated by the complainant. The said kitchen is at a distance from the living room as shown in the site plan Exhibit PW5/A. According to him, when he reached the spot, he saw that his wife was being dragged out side by the respondent whereas, this was not the case of the complainant. According to her, she was dragged by the respondent to the adjoining room and not out of the kitchen. Further, the complainant has stated that Jaswant Singh brother of PW2 was sleeping with his wife in the adjoining room but her husband has deposed that his brother had gone for his duty in a cement factory. Satbir Kaur (PW3) gave another story that the respondent was in the room of her mother for about an hour. On hearing the cries, she got up and the respondent brandished the knife and told her not to make a noise and the respondent dragged her mother towards the kitchen. She was also confronted with her statement with respect to the brandishing of the knife which did not find place there. Baldev Singh Vice President (PW5) admittedly is in litigation with the respondent and his family. The cases are pending in the Court. Otherwise also, he has not deposed any material fact against the respondent except that PW2 had come to him and told him that the respondent had visited his house and he was told to come next morning.

Noticing the above facts, the learned trial Court has rightly concluded that the case of the prosecution stands not proved against the respondent. Since I do not find any infirmity in the impugned judgment of acquittal thus

there is no force in this appeal which is accordingly dismissed. The respondent is discharged of his bail bonds entered upon by him at any time during the prosecution of this case.

(Surinder Singh)  
Judge.

June 26, 2007.  
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